

ORIGINAL

ORIGINAL  
FILE

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

RECEIVED

SEP - 2 1992

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In the Matter of )  
 )  
Policies and Rules Pertaining )  
to the Equal Access Obligations )  
of Cellular Carriers )

RM-8012

To: The Commission

COMMENTS

1. BMCT, L.P. ("BMCT"), by its attorneys and pursuant to Section 1.405(a) of the Federal Communications Commission's ("FCC" or "Commission") rules, and in response to the Commission's Notice, hereby submits its comments in the above-captioned matter.<sup>1/</sup> BMCT opposes MCI's proposal to impose equal access requirements on the cellular industry. Accordingly, BMCT sees no need for the commencement of a rulemaking on this issue.

2. MCI filed a petition for rulemaking to impose equal access requirements on all cellular licensees. Currently, only the Bell Operating Companies ("BOC") are subject to equal access requirements pursuant to the Modified Final Judgment of the AT&T divestiture decree.<sup>2/</sup> MCI recommends imposing equal access

<sup>1/</sup> These Comments are timely filed. See Public Notice, RM-8012, DA 92-745, rel. June 10, 1992; Order extending filing deadline, RM-8012, DA 92-1016, rel. July 28, 1992.

<sup>2/</sup> Unites States v. American Tel. and Tel. Co., 552 F. Supp. 131 (D.D.C. 1982), affd mem. sub nom. Maryland v. United States, 460 U.S. 1001 (1983)

0+4

requirements on all cellular service providers, similar to the requirements imposed on the local exchange carrier ("LEC") industry. As BMCT demonstrates herein, imposing equal access requirements on cellular licensees such as itself would be unduly burdensome, and would not be beneficial to cellular subscribers.

3. In establishing the regulatory structure governing cellular service the FCC emphasized flexibility and "freedom to adapt [cellular] system[s] to growing or changing demand." In the Matter of An Inquiry Into the Use of the Bands 825-845 MHz and 870-890 MHz for Cellular Communications Systems, CC Doc. No. 79-318, Report and Order, 86 F.C.C. 2d 469, 509 (1981). Imposition of burdensome equal access requirements flies in the face of this regulatory scheme.<sup>3/</sup>

4. Furthermore, cellular operates in a competitive environment, competing with such other mobile services as Specialized Mobile Radio, paging, and experimental personal communications services. The cellular industry should not be singled out and burdened with increased regulation, particularly at a time when its competitors are being relieved of regulatory burdens for the ease of the provider, the customer, and the Commission. See, e.g., Amendment of Part 90 of the Commission's Rules to Eliminate Separate Licensing of End Users of Specialized Mobile Radio Systems, Report and Order, PR Doc. No. 92-79, FCC

---

<sup>3/</sup> Moreover, the FCC applied equal access to the LEC industry at large to safeguard against control of bottleneck facilities., a situation unlike the cellular industry.

92-359, rel. Aug. 31, 1992. Thus, MCI's request for greater regulation on cellular mobile services is contrary to the FCC policies and a more competitive mobile services market.

5. For practical as well as theoretical reasons, the FCC should not apply equal access to the cellular industry at large. The cost of implementing equal access can be substantial. Such added costs ultimately befall subscribers, and these costs outweigh any perceived benefits of interexchange carrier choice.

6. As the attached Declaration of Kyle Mussman demonstrates, the cost of initiating equal access in his company's environment would be extremely high. It is estimated that investment in facilities and equal access balloting would cost \$219,621. This would be a tremendous drain on a small start-up cellular company such as BMCT which has a customer base of only 3,500. It is difficult to imagine that the benefits from equal access would exceed such costs.

7. Thus, BMCT concludes that its customers will not benefit from equal access if it were applied to non-Bell Operating Company cellular licensees. Conversely, under the current environment, BMCT's customers benefit from a single provider of cellular and attendant services, i.e., access, interexchange, and billing services. BMCT's customers benefit as well from its ability to purchase interexchange service in bulk at reduced rates from facilities-based carriers or resellers.


CONCLUSION

8. In sum, MCI has not demonstrated that the equal access regulatory scheme is applicable to the cellular mobile services industry, or that it is desirable from the standpoint of cellular customers. To the contrary, the evidence herein supports the conclusion that equal access requirements will add costs and unnecessary burdensome regulation and cellular customers will not benefit in an appreciable way. Therefore, the Commission should deny MCI's petition for a rulemaking to institute equal access regulation for cellular providers as not being in the public interest.

Respectfully submitted,

BMCT, L.P.

By:

  
David L. Nace  
Marci E. Greenstein

Its Attorneys

Lukas, McGowan, Nace & Gutierrez, Chartered  
1819 H Street, N.W., Seventh Floor  
Washington, D.C. 20006  
(202) 857-3500

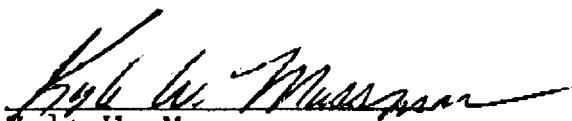
September 2, 1992

DECLARATION

I, Kyle W. Mussman, under penalty of perjury, state that I am the President of the General Partner of BMCT, L.P. dba/CellularOne. I am aware of the Federal Communications Commission's (FCC) request for comments on a petition to the FCC to apply equal access requirements to non-Bell Operating Company cellular providers.

In response to a request by BMCT, L.P. (BMCT), I have prepared the attached estimate of its costs should equal access conversion be mandated. This cost estimate reflects the steps which would have to be undertaken if equal access were applied to BMCT's cellular operations.

For a small start up cellular carrier with high capital expenditures and a large debt ratio, implementing equal access would have a devastating impact on long term growth such as new site development, expansions, and other network upgrades.



Kyle W. Mussman  
President of the General Partner  
BMCT, L.P.

September 2, 1992

COST ESTIMATE TO IMPLEMENT EQUAL ACCESS

1) Switching Hardware	\$71,121.00
2) Switching Software	\$26,500.00
3) Switching Memory	\$50,000.00
4) Switching Implementation average 60 hours per carrier at \$75.00 assume 6 carriers	\$27,000.00
5) Initial mailing 2 ballots	\$ 5,000.00
6) Customer Conversion Time	\$40,000.00
 Estimated Financial Impact To BMCT, L.P. to provide Equal Access	 \$219,621.00

CERTIFICATE OF SERVICE

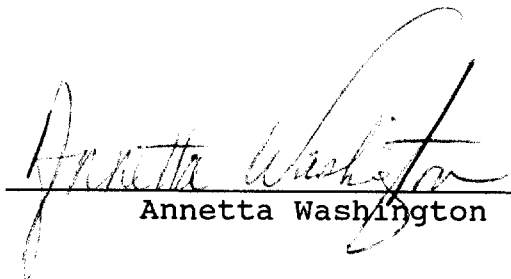
I, Annetta Washington, a secretary in the law offices of Lukas, McGowan, Nace and Gutierrez, Chartered, hereby certify, that I have on this 2nd day of September 1992 sent by First Class Mail, postage prepaid, a copy of the foregoing **COMMENTS** to the following:

Cheryl A. Tritt, Chief\*  
Common Carrier Bureau  
Federal Communications Commission  
1919 M Street, N.W., Room 500  
Washington, DC 20554

Michael Mandigo\*  
Common LCarrier Bureau  
Federal Communications Commission  
1919 M Street, N.W., Room 534  
Washington, D.C. 20554

Downtown Copy Center\*  
1114 21st Street, N.W., Suite 140  
Washington, D.C. 20037

Larry A. Blosser  
Donald J. Elardo  
MCI Telecommunications Corporation  
1801 Pennsylvania Avenue, N.W.  
Washington, D.C. 20006

  
Annetta Washington

\*Hand Delivery